THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 581 of 2007

O r d e r:

The petitioner is a Senior Mechanic in M/s. K.L. College of Engineering, Vijayawada. On certain charges, an enquiry has been initiated against him. Assailing the said enquiry proceedings, the petitioner filed the present writ petition.

The learned counsel for the petitioner submits that the petitioner does not know English, and since the 2nd respondent is conducting the enquiry proceedings initiated against him in English, he requested the 2nd respondent to permit him to engage an Advocate, but the same was refused. He submits that the petitioner is not a Trade Union leader, and no person is coming forward to defend him for fear of harassment by the management. He submits that unless he is permitted to engage an Advocate, he would not be in a position to put forth his defence. He submitted that no prejudice would be caused to the respondent if the petitioner is permitted to engage an Advocate to defend him, and in support of the said contention, he placed reliance on the judgment of the apex Court in **Management of National Seeds Corporation Ltd. v. K.V. Rama Reddy**[1]. He, thus prayed that the respondents be directed to permit the petitioner to engage an Advocate to defend him in the enquiry proceedings.

The respondents filed counter. The learned counsel for the respondents submitted that the writ petition is liable to be dismissed for the reason that the petitioner has not made the college a party-respondent, and this apart, he has not made the Enquiry Officer a party-respondent, but made only the Convener, a party-respondent. While denying the contention of the petitioner that the enquiry proceedings are being conducted in English, submitted that notice of appearance before the Enquiry Officer issued to the petitioner is in Telugu. The petitioner appeared before the Enquiry Officer. The entire enquiry proceedings, including recording of evidence of witnesses, are being made in Telugu. The petitioner also cross-examined the witness of the management. The petitioner having participated in the enquiry proceedings, refused to sign on the

proceedings sheet, and filed the present writ petition. He submitted that the petitioner has not pointed out any statutory violation in the conduct of the enquiry, and as such, the writ petition against a private educational college is not maintainable, and in support of this argument, he placed reliance on a judgment of a learned single Judge of this Court in W.P. No. 7180 of 2006, dated 20.04.2006. He thus submitted that there is no merit in the writ petition, and the same be dismissed.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The law as declared by a Division Bench of this Court in **Vasavi College of Engineering, Hyderabad v. A. Suryanarayana and others**[2], shows that a writ petition would lie even against a private educational institution when a teacher complains of arbitrary termination of his service in violation of the protective provisions of the A.P. Education Act and the Rules made thereunder. A learned single Judge of this Court in W.P. No. 7180 of 2006, vide orders dated 20.04.2006, refused to entertain the writ petition, filed by an employee of a private educational institution aggrieved by the action of the institution in refusing to withdraw his resignation, as he failed to show as to which of the statutory provision either under the A.P. Education Act or under any other enactment has been violated by the institution, in refusing to withdraw the resignation. The learned Judge, therefore, held that the judgment of the Division Bench of this Court in **Vasavi College of Engineering, Hyderbad v. A. Suryanarayana and others**, cannot be made applicable to the said case. Though the writ appeal in W.A. No. 479 of 2006, filed against the said judgment, was admitted and interim order granted initially, the fact remains, subsequently, a Division Bench of this Court, vide orders dated 10.08.2006, vacated the interim orders.

Be that as it may, in the instant case, though the petitioner contends that the enquiry proceedings are being conducted in English, the same is denied by the respondents. It is the case of the respondents that the entire enquiry proceedings are being conducted in Telugu, and that the petitioner though cross-examined the witness of the management in Telugu, but refused to sign on the proceedings sheet. The petitioner except pleading that no prejudice would be caused to the respondent if the petitioner is permitted to engage an

Advocate to defend him in the enquiry proceedings, has not pointed out any statutory violation in the conduct of the enquiry proceedings. In the absence of any statutory violation pointed out by the petitioner in the conduct of the enquiry proceedings, the writ petition, in view of the settled law, as stated above, as against a private educational institution, is not maintainable.

Hence, the writ petition cannot be entertained, and the same is accordingly dismissed. However, the petitioner is at liberty to avail the remedies, as available to him, under law. No costs.

N.V. RAMANA, J.

Dated: 7th September, 2007.
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[1] AIR 2006 SCW 5214

[2] 1991 (3) ALT 335